

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

TUESDAY, THE 19TH SEPTEMBER 2006 / 28TH BHADRA 1928

ST.Rev..No. 565 of 2004()

TA.531/2001 of COMMR.KERALA AGR.IT & STAT,TVM. DT. 6.5.2002

.....

REVISION PETITIONER/RESPONDENT/REVENUE

**STATE OF KERALA, REP. BY
DEPUTY COMMISSIONER (LAW), COMMERCIAL TAXES,
ERNAKULAM.**

BY GOVERNMENT PLEADER SRI.V.V.ASOKAN

RESPONDENT: APPELLANT/ ASSESSEE

**GOVT. INSTRUMENT WORKSHOP,
INDUSTRIAL ESTATE, THIRUVANANTHAPURAM.**

**BY ADV. SRI.K.B.MUHAMED KUTTY
SRI.K.M.FIROZ**

**THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD
ON 19/09/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

C.N.RAMACHANDRAN NAIR &
K.M.JOSEPH, JJ.

S.T.Rev. NO.565 OF 2004

Dated this the 19th day of September, 2006

JUDGMENT

Ramachandran Nair,J.

The question raised in this Tax Revision filed by the State is whether the respondent-assessee is liable to pay purchase tax under Section 5A of the KGST Act on purchases of brass catridges which are converted into ingots by the assessee. It is on record that the only supplier is the police department where from the respondent is purchasing it. Used catridges are melted and converted into ingots which is only recovery of the metal for rerolling and other purposes. The Tribunal took the view that no new commodity emerges in the course of melting catridges into ingots form. We are also of the view that conversion of catridges shells into ingot form does not amount to manufacture of any product. Besides this, it is to be noted that turnover involved is above Rs. 2 lakhs during the year 1992-93. Since purchases are from the very same department, the supplier is above the non-taxable limit and purchase is not in a circumstance in which no tax

is payable by the seller. The seller being a Government department was bound to collect sales tax and remit the same. This Court in THE KERALA PREMO PIPE FACTORY LTD. V. STATE OF KERALA, (1984) 57 STC 84 held that where supplier's turnover is above non-taxable limit, tax cannot be levied on the purchaser under Section 5A of the Act. Since both the grounds are found in favour of the assessee, we uphold the order of the Tribunal and dismiss the Tax Revision filed by the State.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M.JOSEPH)
Judge

